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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/029,425	12/18/1998	Rudolf Muller	67582.5	6051

58785 7590 01/16/2008  
HUNTON & WILLIAMS/NEW YORK  
INTELLECTUAL PROPERTY DEPT.  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

EXAMINER
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COZART, JERMIE E

ART UNIT	PAPER NUMBER
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3726

MAIL DATE	DELIVERY MODE
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01/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/029,425

Applicant(s)

MULLER, RUDOLF

Examiner

Jermie Cozart

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 10-38 and 48-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,39 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 6-8 and 40-44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-5, 9, 39, 45, and 46 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Mueller (WO 95/26256). *See Figures 1-9 for further clarification.*

Regarding claims 1 and 39, Mueller discloses joining a bolt or fastener element (10), having a head portion (12), a recess (20) under the head portion (12), a shaft portion (16) and at least one radial groove (28; page 10, line 15) in its shaft portion, to a sheet metal component (52) by forming a hole in the sheet metal component in such a way that a collar (see page 13, lines 9-11 and Figure 8) of material is formed at the side of the sheet metal component (52) remote from the head portion (12) of the fastener element (10), with the material of the collar being subsequently deformed radially inwardly into the radial groove (28) by a die button (54), wherein a die button is used having a ring-shaped projection (64) provided at its end face surrounding a tapered recess (see Figure 7) and having sloping flanks (72) for pressing the sheet metal component upwardly into the recess (20) provided under the head portion (12) of the fastener element (10) and radially inwardly towards the shaft portion (16) into the radial groove (28) in the transition from the head portion (12) to the shaft portion (16).

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3. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller (WO 95/26256).

Mueller discloses all of the claimed subject matter except for hardening the first plurality of male threads adjacent the radial groove prior to attachment of the fastener element to the panel.

It is conventional and well known to work hardened a component for use in an assembly connection (i.e. fastener) to thereby increase the fatigue resistance of the component.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to harden the first plurality of male threads of Mueller adjacent the radial groove prior to attachment of the fastener element to the panel, in order to increase the fatigue resistance of the fastener.

***Allowable Subject Matter***

6. Claims 6-8 and 40-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments, see pages 14-16, filed 10/19/07, with respect to the rejection of claims 1-5, 9, 39, 45, and 46 under 35 U.S.C. 102(b) as being anticipated by Mueller (6,125,524) and the rejection of claims 1-5, 9, 39, 45, and 46 under 35 U.S.C. 102(e) as being anticipated by Mueller (WO 95/26256) have been fully considered and are persuasive. The rejection of these claims under these statutes has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mueller (WO 95/26256) under 35 U.S.C. 102(a) with respect to claims 1-5, 9, 39, 45, and 46.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 13, 2008

  
JERMIE E. COZART  
PRIMARY EXAMINER